

INTRODUCTION

This manual frames the policies established to direct the operations of the Washington State Court Interpreter Program. The policies embodied in this manual constitute the official version of the regulations governing the Court Interpreter Program.

The Washington State Court Interpreter Program operates under the Washington State Administrative Office of the Courts (AOC). The court interpreter certification process exists to aid the court in identifying interpreters qualified to interpret in court proceedings.

The AOC is responsible for establishing and administering a comprehensive testing and certification program for language interpreters (RCW 2.43.070). The AOC worked with the Court Interpreter Certification Commission (Commission), established in 1999, to standardize testing and scoring processes, implement a continuing education/court hour requirement, establish a disciplinary procedure, and publish a directory of certified court interpreters on the AOC's website at www.courts.wa.gov/programs_orgs/courtinterpreters.

The Commission is convened pursuant to General Rule 11.1 that directs the Commission to maintain the program policy manual and staff committees on Issues, Discipline, and Judicial and Court Manager Education.

Washington State offers certification in the following languages: *Arabic, Cantonese, Korean, Laotian, Mandarin, Russian, Somali, Spanish, and Vietnamese*.

RCW CHAPTER 2.43

INTERPRETERS FOR NON-ENGLISH-SPEAKING PERSONS

RCW 2.43.010 Legislative Intent

It is hereby declared to be the policy of this statute to secure the rights, constitutional or otherwise, of persons who because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. Nothing in chapter 358, Laws of 1989, abridges the parties' rights or obligations under other statutes or court rules or other law.

RCW 2.43.020 Definitions

As used in this chapter:

(1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.

(2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

(3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before [an] administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

(4) "Certified interpreter" means an interpreter who is certified by the Administrative Office of the Courts.

(5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

RCW 2.43.030 Appointment of Interpreter

(1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.

(a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the Administrative Office of the Courts, unless good cause is found and noted on the record by the appointing authority. For purposes of chapter 358, Laws of 1989, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the Administrative Office of the Courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified, or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the Code of Ethics for language interpreters established by court rules.

RCW 2.43.040 Fees and Expenses -- Cost of Providing Interpreter

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case, the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

RCW 2.43.050 Oath

Before beginning to interpret, every interpreter appointed under this chapter shall take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

RCW 2.43.060 Waiver of Right to Interpreter

(1) The right to a qualified interpreter may not be waived except when:

(a) a non-English-speaking person requests a waiver; and

(b) the appointing authority determines, on the record, that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings.

RCW 2.43.070 Testing, Certification of Interpreters

(1) Subject to the availability of funds, the Administrative Office of the Courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The Administrative Office of the Courts shall work cooperatively with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The Administrative Office of the Courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The Administrative Office of the Courts shall conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The Administrative Office of the Courts shall compile, maintain, and disseminate a current list of interpreters certified by the Administrative Office of the Courts.

(6) The Administrative Office of the Courts may charge reasonable fees for testing, training, and certification.

RCW 2.43.080 Code of Ethics

All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a Code of Ethics established by Supreme Court rule.

TESTING

TESTING AUTHORITY

The Administrative Office of the Courts (AOC) was mandated by the Legislature July 1, 1990, to administer a comprehensive testing and certification program for language-spoken interpreters (RCW 2.43.070). Specifically related to testing, the statute requires the AOC to:

- Establish and adopt standards of proficiency (written and oral) in English and the languages to be interpreted;
- Conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations;
- Compile, maintain and disseminate a current list of interpreters certified by the AOC; and
- The AOC may charge reasonable fees for testing and certification.

NATIONAL CENTER FOR STATE COURTS; CONSORTIUM FOR STATE COURT INTERPRETER CERTIFICATION

The AOC joined forces with Minnesota, New Jersey, and Oregon to create the Consortium for State Court Interpreter Certification (The Consortium). The Consortium operates under the direction and is staffed by the National Center for State Courts (NCSC), located in Virginia.

The Consortium addresses resource shortages that impede efforts by state courts to define and implement standards for interpreting proficiency. The Consortium was created in July 1995 as a way to provide for and regulate exchange of existing court interpreter proficiency tests and to develop new tests. It is a mechanism through which funds from several sources can be combined to achieve economies of scale across jurisdictional and organizational boundaries that would otherwise be impossible. To date, there are 35 Consortium member states.

The functions of the Consortium are:

- to regulate court interpretation, test development and reliability for test construction,
- test administration standards,
- provide testing materials, and
- facilitate information sharing among member states, and act as a repository for test versions and candidate tracking.

The Washington State Court Interpreter Program exclusively uses Consortium approved written and oral examinations. The program also contracts with the Consortium to coordinate a language-specific rating for the oral examination. The Consortium is responsible for tracking what versions of the examinations are given to testing candidates, and when.

TESTING

(1) **Written Examination.** The written exam is a general English proficiency exam and consists of two sections. The first section contains 135 questions in multiple-choice format and includes questions related to legal terminology, English aptitude, and court interpreter ethics. Section one of the written exam is scored via SCANTRON. Section two requires translation of 10 passages from English into the target language. The translation section of the written exam is rated by linguistic professionals. A test candidate must pass both the multiple-choice section and the translation section with a score of 80% or better to be eligible to take the oral examination.

(2) **Oral Examination.** The oral exam consists of simultaneous, consecutive, and sight translation interpretation exercises. The entire oral exam is audio taped and sent to the Consortium to coordinate rating. Linguistic professionals, hired by the Consortium, conduct rating. The test candidate must pass each section with a score of at least 70% or better.

In no case shall a person be allowed to take the same oral test version more than once within a 12-month period.

RESCORING OF WRITTEN EXAM

Because testing is a primary goal stated via statute for the AOC, the complete cycle of exams will be offered at least one time per calendar year. The annual schedule includes the written exam in May and the oral exam in September. Based on the results of the oral exam in September, the AOC may sponsor another oral exam in the spring. The additional oral exam offering is by invitation only. Invitations to retake the exam will be extended to test candidates who passed two of the three sections and failed the remaining section with a score of at least 65%. The AOC's ability to offer the spring exam may be impacted by the availability of test versions and the number of eligible candidates. The testing schedule may be limited by the interpreter budget and may be altered at the sole discretion of the AOC program manager.

Testing fees vary annually and are based on various factors. Testing fees are determined by the AOC (influenced by fees charged by the agency hosting the test).

APPEAL PROCESS

Any candidate that takes the oral certification exam and passes two sections but fails the third, may submit a request for re-score.

A candidate must submit a request for re-scoring to the AOC in writing within 40 days after AOC sends the results of the exam via US mail. Any requests received after 40 days will be denied. In the event that a candidate's request for rescore is approved, he/she will be responsible for paying the cost associated with the rescore (to be determined).

The written appeal will be (1) forwarded to the Issues Committee for review and a decision on whether or not to allow rescoring (2) forwarded to the Consortium for their consideration in developing future examinations, and (3) shared with the Commission at the next quarterly meeting.

Any decision to re-score the exam is at the sole discretion of the Issues Committee based on specific allegations of fundamental errors in the methodology used in evaluating or scoring the exam by the requesting party (test candidate).

RECIPROCITY WITH OTHER STATES

Washington State does not recognize certification from other states, including other Consortium states. In addition, Washington does not recognize federal court certification.

FINAL ACCREDITATION

Candidates, who pass both the written exam and oral exam, must complete the following before receiving accreditation as a certified court interpreter:

1. Submit a completed fingerprint card (available from law enforcement) and application fee to the AOC. (The AOC will submit the fingerprint card to the Washington State Patrol for processing.)
2. Attend a mandatory class on the Introduction to Court Interpreting.
3. Execute the Oath of Interpreter.
4. Obtain interpreter ID badge for court proceedings.

Criminal Background Check

A criminal background check will be conducted for each person who complies with the foregoing final requirements. A misdemeanor, gross misdemeanor or felony conviction may be grounds for denial of certification of a candidate. A candidate's history of criminal convictions will be reviewed by the Issues Committee of the Commission, which will consider the relevance of the criminal history to the profession of court interpreting, the period of time since the conviction date(s) and any evidence of rehabilitation submitted by the candidate. Based upon its review, the Committee will decide whether to grant or deny the certification status. If the Committee denies certification based on a candidate's criminal history, the candidate may appeal the Committee's decision to the entire Commission by filing a written appeal with the AOC within 40 calendar days of the date of the Committee's decision. The Commission shall hear the appeal solely on the written information in the candidate's application file, including information submitted by the candidate, unless, in the Commission's sole discretion, it permits the candidate to file additional written information. The Commission shall issue a written decision on the candidate's appeal.

ID Badge

All candidates granted a certification status will receive an ID badge that includes their picture and two-year expiration date. At the end of each two-year continuing education reporting period, a certified interpreter in good standing will be issued a sticker with a new expiration date to be placed over the old expiration date.

For identification purposes, certified interpreters will have a horizontal orientation to their badge; where as registered interpreters will have a vertical orientation. Interpreters should wear their badge whenever serving as court interpreters and judicial officers are encouraged to check for the interpreter's badge prior to any court proceeding. In the event of a lost badge, replacement badges can be ordered at the interpreter's expense.

CONTINUING EDUCATION

Continuing education requirements apply to interpreters who are certified in Washington State. Meeting these requirements is a condition for all certified court interpreters. There are no exceptions.

REQUIREMENTS

A. Continuing Education

Every certified court interpreter shall complete 16 hours of approved continuing education each two-year compliance period. At least two (2) continuing education hours must be earned at an AOC approved ethics workshop.

B. Court Hours

Every certified court interpreter shall complete 20 court hours each two-year compliance period. The interpreter will document court hours on the compliance form by showing court location, date, case number, and number of hours spent on each case. A written statement from a court administrator attesting to the approximate number of court hours may be submitted in lieu of a listing of court cases. Court hours may include interviews, sight translation of documents in meetings with attorneys, or depositions.

Certified court interpreters may carry over a maximum of six (6) continuing education credits earned in excess of the requirement in any two-year compliance period to the next compliance period. If an interpreter earns more than two (2) ethics credits in a review period, the additional credits may carry over as general credits but will not be counted toward the ethics requirement for the next reporting period.

CLASS APPROVAL AND CREDIT

A. Approval

An application for approval must be submitted for each class by either the provider or an attendee. Credits for the class are decided by the AOC. If the person submitting the application disagrees with the decision of the AOC on an application, the person may submit a written appeal to the AOC within 30 days of the date of the AOC's decision. The appeal shall be decided by the Issues Committee of the Interpreter Commission. The decision of the Issues Committee is final.

Approved classes are posted on the AOC Court Interpreter Program website at www.courts.wa.gov/programs_orgs/courtinterpreters. Once a course is approved for continuing education credit, the approval continues to be valid for a period of one year from the date the class was given. As long as the course is taught by the same instructor and the curriculum has not changed, the vendor can offer the same course for one year without submitting a new application. If either the instructor or content changes, a new application is necessary.

B. Credit

- (1) Class Hours. Every AOC approved class hour shall be counted as one hour of continuing education. Credit will not be given in quarter-hour segments; however, credit will be given in half-hour segments after the completion of one full hour of class. No credit will be given for attending only a portion of a participatory activity. Arriving late or leaving early will result in the interpreter not receiving any continuing education credit for the course.
- (2) Participatory Activities. Except as noted below, all continuing education hours shall be earned in participatory activities such as: a course, workshop, lecture, or other activity at which attendance is monitored and verifiable. Participatory continuing education activities may include courses offered at accredited institutions of higher learning or conferences or workshops sponsored by professional organizations, provided the topic is relevant to court interpreting and approved by the AOC. Education courses to assist in taking the written exam or oral exam are not eligible for continuing education credit. However, approval may be sought for teaching test preparation courses.
- (3) Credit for Teaching. Interpreters who serve as instructors in participatory activities may receive continuing education credit for preparation and instruction time. The interpreter is limited to credit for three planning hours for every hour of instruction. The interpreter must track and report the actual time spent on a compliance form. No continuing education credits earned pursuant to this section may be carried forward to the next two-year reporting period.
- (4) Credit for Interpreter Program/Commission Work. Interpreters who are specifically authorized by AOC to review, rewrite and/or develop new or existing policies, manuals, materials or data managed by AOC's Interpreter Program or the Commission, may receive continuing education credit for such work, not to exceed three (3) credits during any calendar year or six (6) credits during any two-year reporting period.

All work provided pursuant to this section will be reviewed by other certified or registered court interpreters to ensure completeness and accuracy. The reviewed work will be submitted to the Issues Committee for review and to the

Interpreter Commission for approval.

The Issues Committee will determine the number of continuing education credits for work provided pursuant to this section. No continuing education credits earned pursuant to this section may be carried forward to the next two-year reporting period.

VERIFICATION OF COMPLIANCE

Every certified court interpreter is responsible for completing a compliance form at the conclusion of each two-year reporting period and submitting it to the AOC. To complete the compliance form, the interpreter must document his/her continuing education classes and credits, including ethics, and court hours. The compliance form must be signed by the interpreter under penalty of perjury.

The interpreter must retain written compliance documentation for a three-year period after submitting the compliance form to the AOC. The interpreter shall show proof of attendance at continuing education classes upon request.

NON-COMPLIANCE

A certified court interpreter, who fails to submit a compliance form at the end of the two-year reporting period, shall be considered out of compliance. Upon a preliminary determination of an interpreter's non-compliance by the AOC, the AOC will submit a written complaint of non-compliance, together with supporting evidence, to the Discipline Committee of the Interpreter Commission. The AOC will send a notice of non-compliance and a copy of the complaint and supporting evidence to the interpreter. The interpreter may respond within 30 calendar days of the date of notice by submitting to the Discipline Committee a written response. The response shall be in writing, and may include, affidavits or declarations of witnesses, copies of court records, or any other documentary evidence the interpreter wishes to have the Committee consider.

The Discipline Committee shall meet (in person, via email, or telephone conference call) within 40 calendar days of the date of the complaint to review the complaint and supporting evidence, any response and supporting evidence received from the interpreter, determine whether there is clear and convincing evidence that the interpreter is out of compliance and, if so, impose such disciplinary action as it determines appropriate.

Certified interpreters will not be issued a current ID badge until all continuing education requirements are satisfied. If the Discipline Committee suspends or revokes the certification of an interpreter, the interpreter's name will be removed from the directory of certified interpreters found on the AOC's website at

www.courts.wa.gov and an electronic notice will be sent to presiding judges and court administrators/managers.

REQUEST FOR REINSTATEMENT

A certified court interpreter whose credentials has been suspended or revoked may apply in writing to the Discipline Committee for reinstatement pursuant to time frames established in the final notification. This request shall explain why the applicant believes the reinstatement should occur. The Discipline Committee shall have the sole discretion whether to grant or deny reinstatement, or to impose conditions upon reinstatement, as it deems appropriate.

CONTINUING EDUCATION PROVIDER GUIDELINES

The Washington State Interpreter Program demands superior skills for certified court interpreters. In an effort to maintain the skill level that court interpreters possess at the time they pass their exams, the Interpreter Commission adopted a policy requiring each certified court interpreter to participate in continuing education activities and court hours and report them every two years to maintain their certified status. Court interpreter continuing education refers to educational activities in which court interpreters participate to improve their professional knowledge, skills, and abilities. The instruction may be directly related to the act of interpreting, or may cover the types of cases, terminology, or legal concepts such as criminal investigation, weapons, sex offenses, and slang. The courses of study may be a short-term workshop or long-term such as a conference or sequence of classes.

An “approved continuing education activity” is a course, workshop, lecture, field trip, or other educational activity that has been approved by the AOC. The term “approved continuing education activity” or similar phrase shall not be used in promotional materials for any educational activity unless an application for approval was submitted to and approved by the AOC. If an application for approval is pending, the provider shall state in the notice that the application has been made and is pending approval.

PROVIDER RESPONSIBILITIES

Providers of approved continuing education activities shall have a written and published policy upon request containing information on (1) refunds in case of non attendance, (2) time period for return of fees, and (3) notification of activity cancellation.

Providers of approved continuing education activities shall keep the following records for a period of five years in one location within the state of Washington, or in a place approved by the Interpreter Commission:

1. Course outline or syllabus
2. Record of date(s) and location(s) of activity
3. Curriculum vita or resume of instructor(s)
4. Full name of each interpreter participating in activity
5. Roster of attendance with participants’ signatures
6. Copy of attendance verification issued to participants

Providers of approved continuing education activities shall notify the AOC of any change to their organizational structure and/or personnel responsible for continuing education activities, including name and address changes within 30 days after the change.

Providers shall provide documentation to participants that show they attended an approved program. Providers shall establish a system whereby participants are required to sign in at the beginning of the activity and sign out at the end.

Providers shall accept full responsibility for adhering to guidelines, including, but not limited to (1) recordkeeping, (2) advertising and publicity, (3) issuance of attendance verification, and (4) instructor qualifications.

For purposes of monitoring compliance with these guidelines, the AOC may request copies of pertinent documents. Furthermore, the AOC or the Interpreter Commission may send representatives to attend any approved continuing education activity at no charge. The representative shall identify himself/herself as a member of the AOC or Interpreter Commission.

INSTRUCTOR QUALIFICATIONS

Instructors teaching approved continuing education activities shall meet the following minimum qualifications:

Interpreting Classes: Have at least a bachelor's degree from a U.S. university or the equivalent degree from a foreign university and at least five years' experience in courtroom or conference interpreting OR possess Washington State certification or registration or federal court interpreter certification.

Translation Classes: Have at least a bachelor's degree from a U.S. university or the equivalent from a foreign university and have at least five years' experience as a professional translator OR be accredited by an AOC recognized professional translators association OR possess a university degree in translation or valid credentials as a translator from another country.

Other Classes: Possess the necessary credentials to practice their profession or trade (an academic degree, license, certificate, etc.) and have at least five years' experience in their profession or trade or have experience teaching the subject of the course in question.

The AOC may waive any requirement for individuals on a case-by-case basis and particular consideration will be given to the topic of the continuing education activity.

VERIFICATION OF ATTENDANCE

Within 60 days of completion of an approved continuing education activity, the provider shall issue a document to each participant to verify attendance. The document may be a certificate of completion, transcript, grade, or letter. Regardless of the form of the document, the following information shall be included: name of student, course title, date of course, number of continuing hours granted, provider name and signature.

PROMOTIONAL MATERIALS

Any promotional materials distributed to publicize approved continuing education activities shall contain the following statement: "This course has been approved by the Administrative Office of the Courts for ** hours of continuing education credit."

Any promotional materials distributed to publicize a course for which approval is pending shall contain the following statement: "This course has been submitted to the Administrative Office of the Courts for continuing education credit and approval is pending."

Providers of approved continuing education activities shall indicate in the promotional materials the nature of the activity, the time devoted to each topic, and the identity and qualifications of the instructors.

Continuing education providers have access to publishing their upcoming classes on an electronic bulletin board located on the AOC's website. These classes do not need to be pre-approved by the AOC. A disclaimer will specifically state that the classes listed on the website are for promotion only and there is no guarantee that they have been or will be approved through the formal application process.

INSTRUCTIONS FOR APPLICATION

1. Fill in the name, address, and phone number of the provider.
2. Check the status of the provider.
3. Fill in the title of the course.
4. Specify the name, profession, title, etc. of each instructor. Attach a resume or include a brief biography as might be included in a course catalogue/brochure.
5. List the topics to be covered during the course. This may be accomplished by attaching a syllabus. As much information on the course content as possible should be included. If the course is not an interpreting course, a statement addressing how the topics relate to the profession of interpreting should be included.

6. Specify the date(s) when the course is being offered, where the course is being offered, and the fee required to register.
7. State the number of hours of actual classroom participation (excluding lunch hours and breaks).
8. Provide an estimated number of participants expected to attend.
9. List course materials to be used.

If the provider is submitting the application, he/she should print his/her name on the line provided, then sign and date the form. If an interpreter is submitting the application, he/she may complete this item with their name and signature. The person signing the application will be informed of the decision.

DISCIPLINARY PROCESS

REASONS FOR DISCIPLINE

A certified court interpreter is subject to disciplinary sanctions for any of the following reasons:

- A. Conviction of any felony or misdemeanor
- B. Fraud, dishonesty, or corruption that is related to the functions and duties of a court interpreter
- C. Continued false or deceptive advertising after receipt of notification to discontinue
- D. Knowing and willful disclosure of confidential or privileged information obtained while serving in an official capacity
- E. Gross incompetence
- F. Failing to appear as scheduled without good cause
- G. Violation of the court interpreter's code of professional responsibility or any other judicial department policies or procedures

COMPLAINT WITHOUT MERIT

Any person may initiate a complaint against a certified interpreter by filing a complaint with the AOC. A complaint must be in writing, must be signed, and must describe the alleged inappropriate conduct. Upon receipt of a complaint, the AOC will review the complaint to determine whether the complaint alleges sufficient facts to constitute grounds for disciplinary action against a certified interpreter.

If the complaint does not allege sufficient facts to constitute grounds for disciplinary action against a certified interpreter, the AOC shall forward a recommendation for dismissal to the chair of the Interpreter Commission. If the chair agrees with the recommendation, a letter dismissing the complaint shall be mailed to the complainant.

If the chair decides further investigation of the complaint is required, the complaint shall be forwarded to the Discipline Committee. The Committee shall meet (in person or telephone conference call) within 45 calendar days to review the complaint and determine whether further action is required. The Committee may consider information obtained from sources other than the complaint. If the Discipline Committee does not find sufficient facts in support of grounds for disciplinary action against the interpreter, the Committee shall dismiss the complaint and the complainant shall be so notified by mail.

COMPLAINT WITH MERIT

Any person may initiate a complaint against a certified interpreter by filing a complaint with the AOC. A complaint must be in writing, must be signed, and must describe the alleged inappropriate conduct. Upon receipt of a complaint, the AOC will review the complaint to determine whether the complaint alleges sufficient facts to constitute grounds for disciplinary action against a certified interpreter. If the AOC staff determines that the allegation of misconduct needs review, the AOC will refer the matter to the Discipline Committee.

If the Discipline Committee finds sufficient facts to constitute grounds for disciplinary action against a certified interpreter, the Committee will notify the interpreter. The Committee will ask the interpreter to respond to the allegations in the complaint in writing within 25 calendar days of the date of the notice. The interpreter may submit any evidence he/she wishes to have the Discipline Committee consider. The evidence shall be in writing, by way of affidavit or declaration of witnesses, copies of court records, or any other documentary evidence the interpreter wishes to have the Committee consider. The Discipline Committee shall review the matter, and consider the complaint, additional information from the interpreter's official AOC file, information discovered during the Committee's investigation, information submitted by the interpreter, and the response from the interpreter.

Efforts to resolve the complaint may be initiated by the AOC or the interpreter at any time. Any resolution reached must be submitted in writing to the Discipline Committee for approval. The complainant and the court interpreter will be notified of the agreed resolution in writing.

All Discipline Committee meetings will be private and confidential unless otherwise requested by the interpreter facing the allegations, and agreed upon by the Discipline Committee. Meetings may take place in person or by telephone conference call. The state Rules of Evidence shall not apply to information considered by the Discipline Committee. Evidence, including hearsay evidence, is admissible. The Discipline Committee may, in its sole discretion, call witnesses, consider or clarify any evidence presented (including affidavits), and give such evidence the weight it deems appropriate.

If the Discipline Committee finds that there is clear and convincing evidence that the interpreter has violated the Code of Professional Responsibility, it shall issue a written decision and impose such discipline or sanctions as the Committee finds to be appropriate. Possible disciplinary sanctions are set forth in Section IV of these regulations. The decision of the Disciplinary Committee is final. If an interpreter is dismissed as a result of a disciplinary action, his/her name will be removed from the online directory of certified interpreters and an electronic notice will be sent to the presiding judges and court administrators/managers.

DISCIPLINARY SANCTIONS

The Discipline Committee shall issue a decision, including the sanctions to be imposed, within 40 calendar days from the conclusion of the meeting. Time limits may be extended by mutual agreement between the interpreter and the Discipline Committee when an extension is necessary to ensure the fairness and/or sufficiency of the process. Sanctions may consist of, but are not limited to, one or more of the following:

1. Private reprimand, written correspondence that is placed in the interpreter's file;
2. Public reprimand, written correspondence that is copied to presiding judges, court administrators/managers, and placed in the interpreter's file;
3. Imposition of costs and expenses incurred by the Discipline Committee in connection with the proceeding, including investigative costs;
4. Restitution;
5. Requiring that specific education courses be taken;
6. Requiring that one or more parts of the interpreter certification examination be retaken;
7. Requiring that work be supervised;
8. Suspension of certification for a specified period of time; and
9. Revocation of certification, to include a determination as to whether the interpreter will be allowed to apply for reinstatement of certification following a specified period of time.

The specific disciplinary action and the degree of discipline to be imposed should depend upon factors that include: aggravating and mitigating factors including but not limited to the seriousness of the violation, the intent of the interpreter, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

Electronic notice of the disciplinary action will be sent to presiding judges and court administrators/managers unless the Discipline Committee decides notice is not warranted.

APPEAL

The interpreter may appeal the Discipline Committee's decision no later than 40 calendar days after the decision is mailed to the interpreter. The appeal shall be directed to the AOC staff and shall include the interpreter's written objections to the decision. The Commission (minimally a quorum thereof) shall consider the appeal based upon the written record, including, but not limited to the AOC file, written material submitted by the interpreter, or written conclusions made by the Discipline Committee. The Commission shall meet (in person or telephone conference call) to consider the appeal within 45 calendar days of receipt of the appeal. The complainant and the interpreter shall be notified of the Commission's decision on the appeal within 30 calendar days of the meeting.

A majority of the Commission members shall constitute a quorum.

REQUEST FOR REINSTATEMENT

A court interpreter whose certification has been suspended or revoked may apply in writing to the Discipline Committee for reinstatement pursuant to time frames established in the final notification. This request shall explain why the applicant believes the reinstatement should occur. The Discipline Committee shall have the sole discretion whether to grant or deny reinstatement, or to impose conditions upon reinstatement, as it deems appropriate.

GR 11 COURT INTERPRETERS

Introduction: GR 11 became effective on July 17, 1987.

The use of qualified interpreters is authorized in judicial proceedings involving hearing impaired or non-English speaking individuals.

INTERPRETER COMMISSION

GENERAL RULE 11.1

PURPOSE AND SCOPE OF INTERPRETER COMMISSION

(a) Purpose and Scope. This rule establishes the Interpreter Commission (“Commission”) and prescribes the conditions of its activities. This rule does not modify or duplicate the statutory process directing the Court Certified Interpreter Program as it is administered by the Administrative Office of the Courts (AOC) (RCW 2.43). The Interpreter Commission will develop policies for the Interpreter Program and the Program Policy Manual, published on the Washington Court’s website at www.courts.wa.gov, which shall constitute the official version of policies governing the Court Certified Interpreter Program.

(b) Jurisdiction and Powers. All certified court interpreters who are certified in the state of Washington by AOC are subject to rules and regulations specified in the Interpreter Program Manual. The Commission shall establish three committees to fulfill ongoing functions related to issues, discipline, and judicial/court administration education. Each committee shall consist of three Commission members and one member shall be identified as the chair.

(1) The Issues Committee is assigned issues, complaints, and/or requests from interpreters for review and response. If the situation cannot be resolved at the Issues Committee level, the matter will be submitted by written referral to the Disciplinary Committee.

(2) The Disciplinary Committee has the authority to decertify and deny certification of interpreters based on the disciplinary procedures for: (a) violations of continuing education/court hour requirements, (b) failure to comply with Interpreter Code of Conduct (GR 11.2) or professional standards, or (3) violations of law that may interfere with their duties as a certified court interpreter. The Disciplinary Committee will decide on appeal any issues submitted by the Issues Committee.

(3) The Judicial and Court Administration Education Committee shall provide ongoing opportunities for training and resources to judicial officers and court administrators related to court interpretation improvement.

(c) Establishment. The Supreme Court shall appoint members to the Interpreter Commission. The Supreme Court shall designate the chair of the Commission. The Commission shall include representatives from the following areas of expertise: judicial officers from the appellate and each trial court level

(3), interpreter (2), court administrator (1), attorney (1), public member (2), representative from ethnic organization (1), and AOC representative (1). The term for a member of the Commission shall be three years. Members are eligible to serve a subsequent 3 year term. The Commission shall consist of eleven members. Members shall only serve on one committee and committees may be supplemented by ad hoc professionals as designated by the chair. Ad hoc members may not serve as the chair of a committee.

(d) Regulations. Policies outlining rules and regulations directing the interpreter program are specified in the Interpreter Program Manual. The Commission, through the Issues Committee and Disciplinary Committee, shall enforce the policies of the interpreter program. Interpreter program policies may be modified at any time by the Commission and AOC.

(e) Existing Law Unchanged. This rule shall not expand, narrow, or otherwise affect existing law, including but not limited to RCW chapter 2.43.

(f) Meetings. The Commission shall hold meetings as determined necessary by the chair. Meetings of the Commission are open to the public except for executive sessions and disciplinary meetings related to action against a certified interpreter.

(g) Immunity from Liability. No cause of action against the Commission, its standing members or ad hoc members appointed by the Commission, shall accrue in favor of a certified court interpreter or any other person arising from any act taken pursuant to this rule, provided that the Commission members or ad hoc members acted in good faith. The burden of proving that the acts were not taken in good faith shall be on the party asserting it.

GR 11.2

CODE OF CONDUCT FOR COURT INTERPRETERS

Introduction: The Washington State Supreme Court adopted the Code of Conduct for Court Interpreters in November of 1989. Washington law establishes that all legal interpreters, whether certified or not, must follow the Code of Conduct.

Preamble: All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

(a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promotes public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreter's personal moods or attitudes.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English-speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has any interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

(e) Except in the interpreter's official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without written consent of the parties to the communication, or pursuant to court order.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advices and shall refrain from the unauthorized practice of law.

[Adopted effective November 17, 1989]

[By orders dated November 2, 1989, the Supreme Court adopted GR 11.1 and CrRLJ 3.2(0) and amended CR 79 (e) to read as set forth below. Effective November 17, 1989.]

GR 11.1 the use of qualified interpreters is authorized in judicial proceedings involving hearing impaired or non-English-speaking individuals [adopted effective July 17, 1987].

GR 11.3

TELEPHONIC INTERPRETATION

Introduction: GR 11.3 became effective on September 1, 1994.

- (a) Interpreters may be appointed to serve by telephone for brief, nonevidentiary proceedings, including initial appearances and arraignments, when interpreters are not readily available to the court. Telephone interpretation is not authorized for evidentiary hearings.
- (b) RCW 2.43 and GR 11.1 must be followed regarding the interpreter's qualifications and other matters.
- (c) Electronic equipment used during the hearing must ensure that the non-English-speaking party hears all statements made by the participants. If electronic equipment is not available for simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of each sentence.
- (d) Attorney-client consultations must be interpreted confidentially.
- (e) Written documents which would normally be orally translated by the interpreter must be read aloud to allow full oral translation of the material by the interpreter.
- (f) An audio recording shall be made of all statements made on the record during their interpretation, and the same shall be preserved.

COMMENTS ON THE CODE OF CONDUCT

By: Court Interpreter Task Force

The Court Interpreter Task Force published comments to its proposed code in 1986. These comments are useful because they expand on issues covered by various provisions of the Code of Conduct for court interpreters.

Standards

The Code of Judicial Conduct (CJC) Canons 1 and 3 require high standards of conduct by judges, their staff, and court officials. Such standards apply to interpreters as well. Interpreters are the vital link in communication between litigants and the court. Conflicts of interest may consciously or subconsciously affect the quality or substance of an interpretation or translation. The need for unquestioned integrity among interpreters is obvious. These Canons apply to interpreters and translators for both the hearing impaired and for individuals who speak a language other than English. CJC Canon 3 requires court personnel and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

Accuracy

The interpreter should utilize the same level of language used by the speaker. This means that the interpreter will interpret colloquial, slang, obscene or crude language, as well as sophisticated and erudite language, in accordance with the exact usage of the speaker. It is not the interpreter's task to tone down, improve, or edit phrases.

Unless the interpreter is faithful to this concept of accurate interpretation, he or she may act as a filter or buffer in the communication process. This could damage the integrity of the trial process, which is based on an adversarial system with vigorous examination and cross-examination. Consequently, the substance of questions posed and answers given during the testimony should not be altered more than absolutely necessary to assure comprehension.

The interpreter should not assume that it is his or her duty to simplify statements for a witness or defendant whom the interpreter believes cannot understand the speaker's statements. Like witnesses who do not use an interpreter, interpreted witnesses can and should request counsel or the court to explain or simplify matters if necessary.

An interpreter should never characterize or give a gratuitous explanation of testimony. The court or attorneys will request clarification from the speaker if necessary. The court and counsel should be sensitive to possible confusion by the witness. During testimony, the interpreter may volunteer to the court his or

her belief that the witness does not understand a particular question or comment.

Idioms, proverbs and sayings rarely can be interpreted literally. The interpreter should seek an equivalent idiom or relate the meaning of the original idiom or saying.

While interpreting a non-English language, the interpreter should not offer an explanation or repeat a witness' gesture or grimace, which has been seen by the trier of fact.

Interpreters for the deaf or hearing-impaired should use the method of interpreting most rapidly understood by the deaf or hearing-impaired witness. For example, the witness may be more articulate in American Sign Language than in manually coded English or finger spelling.

Meaning

A court interpreter or legal translator is often faced with new technical terms, slang, regional language differences, and other problems posing difficulty in accurate interpretations or translations.

The interpreter or translator must take time, and be given appropriate time by the court, to determine an appropriate and accurate interpretation or translation of the material. If unable to interpret or translate the material, the parties and the court must be advised so the court can take appropriate action. When necessary, another, better-qualified interpreter should be substituted. Before such substitution, the court may determine whether another linguistic approach can be used for the same result in communication. For example, a different choice of words to be interpreted may solve the problem.

Impartiality

The purpose is to avoid any actual or potential conflict of interest. CJC Canon 3 requires similar disqualification of a judge because of a conflict of interest. Interpreters should maintain an impartial attitude with defendants, witnesses, attorneys, and families. They should neither conceive of themselves nor permit themselves to be used as an investigator for any party to a case. They should clearly indicate their role as an interpreter if they are asked by either party to participate in interviews of prospective witnesses outside of the court. Interpreters should not "take sides" or consider themselves aligned with the prosecution or the defense.

See comment to Canon 6, which discusses the use of interpreters in client and witness interviews. Care must be taken to avoid exposing an interpreter to unnecessary conflict of becoming a potential witness on the merits.

Both court interpreters and jurors should be apprised of the identity of each during voir dire to help determine whether any juror knows the interpreter.

The fees and remuneration of a court interpreter or legal translator shall never be contingent upon the success or failure of the cause in which he/she has been engaged.

Interpreters and translators shall not interpret in any matter in which his/her employer has an interest as an advocate, litigant or otherwise.

Interpreters shall be limited to the role of communication facilitators.

No interpreter who has served as an investigator assisting in preparation for litigation shall serve as a court interpreter in that cause.

Personal Opinion

To promote the trust and integrity of the judicial system, it is important that court officials, including interpreters and translators, refrain from commenting publicly regarding an action. Interpreters and translators shall not offer an opinion to anyone regarding the credibility of witnesses, the prospective outcome of a case, the propriety of a verdict, the conduct of a case, or any other matter not already available by public record.

Legal Advice

The interpreter shall never give legal advice of any kind to the non-English-speaking person or to any other person, whether solicited or not. In all instances, the non-English-speaking person should be referred to counsel. The interpreter may give general information to a non-English-speaking person regarding the time, place, and nature of court proceeding. However, in matters requiring legal judgment, the individual should be referred to an attorney.

The interpreter should never function as an individual referral service for any particular attorney or attorneys. This kind of activity has the appearance of impropriety. When asked to refer a non-English-speaking person to a particular attorney, the interpreter should refer such individual to the local bar association or to the Office of the Public Defender.